

REMARKS / ARGUMENTS

Claims 1-30 are pending in the instant application. Claims 1-8, 10-18, 20-28 and 30 have been amended to clarify the claim language and to further prosecution. The Applicant points out that the amendments to the claims find support in, for example, in Figs. 4-6b and in paragraphs [42] and [45]-[51] of the Specification. Claims 2-10, 12-20 and 22-30 depend directly or indirectly from independent claims 1, 11 and 21, respectively.

Claims 1-9, 11-19 and 21-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 7,225,247 ("Kenndy") in view of USPP 2003/0069975 ("Abjanic").

Claims 10, 20 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy, Abjanic and further in view of USP 6,208,647 ("Deng").

The Applicant respectfully traverses these rejections at least based on the following amendments and remarks.

I. REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection

under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

A. The Proposed Combination of Kennedy and Abjanic Does Not Render Claims 1-9, 11-19 and 21-29 Unpatentable

The Applicant now turns to the rejection of claims 1-9, 11-19 and 21-29 under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Abjanic.

A(1). Independent Claims 1, 11 and 21

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Kennedy and Abjanic does not disclose or suggest at least the limitation of “determining at least a first identifier identifying said common switch, a second identifier identifying said first blade server and at least a third identifier identifying said second blade server, wherein said first, second and third identifiers are located within a header portion of said received at least one packet,” as recited by the Applicant in independent claim 1.

In the Office Action, the Examiner states the following:

“As per claims 1, 11, and 21, Kennedy discloses a method for communicating information in a server, the method comprising: receiving at least one packet (Col 5 line 49-Col 6 line 11; Management controller 120 packetizes the information) from a first blade server of a plurality of blade servers, at least two of which is coupled to a common switch via a common bus (Col 5 line 49- Col 6 line 11; Chassis management module 580 orchestrates the exchange of management information between blade servers 500 through 500G; Figure 5: Items 500A-500G)”

See the Office Action at page 2. The Examiner relies on Kennedy in Fig. 5, and equates the plurality of blade servers 500-500G to Applicant’s “first and second blade servers”, the chassis management module 580 to Applicant’s “common switch”, and the bus 570 to Applicant’s “common bus”. The Examiner concedes the following:

“Kennedy fails to disclose determining at least one identifier associated with at least a second blade server based on at least a portion of said received at least one packet...”

See the Office Action at page 3. The Examiner looks to Abjanic to disclose Kennedy's deficiencies, namely, that the received packet portion discloses at least an identifier associated with at least a second blade server. More specifically, the Office Action states the following:

"Abjanic discloses determining at least one identifier ([0073]; such as switching to a particular output port of switch 165 based on source and/or destination address and port number provided in the message, [0083]; a computer chassis where cards or blades can be plugged in) associated with at least a second blade server based on at least a portion of said received at least one packet; ([0073])"

See the Office Action at page 3. The Examiner relies on Abjanic's Fig. 7, and the following citation of Abjanic:

"...Transforming switch 710 includes a transformer 715 to transform or translate at least a portion of a message from a first data format to a second data format or to a selected one of a plurality of second formats. Message Director 145, which may be optional in some embodiments, is coupled to the output of transformer 715. Message director 145 directs or switches messages to a selected server based upon the content of application data, such as business transaction information, which may be provided as XML data or data in another format. According to an example embodiment, message director 145 may output a switching decision to switch 165 based on the business transaction information of the message as compared to a pattern (or one or more patterns), as described above. Switch 165 then switches the transformed message to one of a plurality of output ports or to one of a plurality of servers (such as servers 150,160 and 170) based on the decision or instructions from message director 145. Because content based message director 145 may be optional in some instances, switch 165 may switch the transformed message using address-based routing or switching techniques, such as switching to a particular output port of switch 165 based on source and/or destination address and port numbers provided in the message or provided in a header of a packet carrying the message."

See Abjanic at ¶0073 (emphasis added). The Examiner equates Abjanic's switch 165 to Applicant's "common switch", Abjanic's transformed message to Applicant's "received packet", Abjanic's source and/or destination address and port numbers provided in a header of a packet carrying the message to Applicant's identifiers for the first blade server and second blade server.

However, the Applicant points out that Abjanic in the above citation, discloses that the format of the transformed messages (i.e., the alleged "received packet") are high level content based messages, in XML, CML or HTML file format. The Examiner is referred to an example of the XML message format provided by Abjanic:

"In this example, the URL (or request line) is provided in a request line to identify a program or application to process the message. Several header lines (Content type, Content-length, date, etc.) make up an HTTP header. The application data is provided after the HTTP header, As an example, a "To" element of the above XML document is written as: <To>bookstore.com</To>. ... **The business transaction information** describes the business transaction (To, From, items purchased, purchase amount, quantity, etc.), and **is not included in the URL, the HTTP header, or any other header, such as an IP header, TCP header, of the envelope used for sending the message.** These are merely examples of the types of business transaction information in a message upon which the director 145 can analyze and **make routing or switching decisions for the message.**"

See Abjanic at ¶0035 (emphasis added). Abjanic clearly discloses that the HTTP header portion of the XML message only discloses information, such as content type, content length and date, etc. Therefore, Abjanic's **XML header portion simply does not contain identifier information that identifies the switch 165** (i.e., the alleged

"common switch"), **the source**, such as an external wireless device 132 (i.e., the alleged "first blade server") **and the destination**, such as servers 150, 160 or 170 (i.e., the alleged "second blade server").

Based on the above rationale, the Applicant maintains that Abjanic does not disclose or suggest at least the limitation of "determining at least **a first identifier** identifying said common switch, **a second identifier** identifying said first blade server and at least **a third identifier** identifying at least said second blade server, wherein said first, second and third identifiers are **located within a header portion of said received at least one packet**," as recited by the Applicant in independent claim 1.

Furthermore, Abjanic in the above citation also discloses that **the routing and switching decision** is based on the business transaction information, which is **not included** in the URL, the HTTP header, or any other header, such as an IP header, TCP header, of the envelope used for sending the message. Instead, the business transaction information (i.e., **routing and switching decision**) **is included in the data portion of the XML message**. For example, Abjanic discloses using the "To" (the destination, i.e., the alleged "identifier for the second blade server") and "From" (the source, i.e., the alleged "identifier for the first blade server").

Moreover, even assuming for the sake of argument that Abjanic uses an address-based switching technique for routing decision, which is based on a source and/or destination address (i.e., using a non content based and non XML message packet), the Examiner's argument is still deficient. Abjanic still does not disclose that an

identifier for the switch 165 is included in the header portion of the address based packet. In other words, Abjanic simply does not disclose or suggest that an identifier for the switch 165 is included in the header portion, irrespective of the packet type or message format is received.

In this regard, the Applicant maintains that Abjanic also does not disclose or suggest at least the limitation of **"routing** via said common switch, at least a portion of said at least one received packet to at least said second blade server, **based on said determined first, second and third identifiers from said header portion of said received at least one packet,"** as recited by the Applicant in independent claim 1.

Accordingly, based on the foregoing rationale, the Applicant maintains that the combination of Kennedy and Abjanic does not establish a prima facie case of obviousness to reject Applicant's claim 1. Claim 1 is therefore submitted to be allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in claim 1. Therefore, the Applicant submits that claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

A(2). Dependent Claims 2-9, 12-19 and 22-29

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy and Abjanic has been overcome and request that the rejection be withdrawn. Additionally, claims 2-9, 12-19 and 22-29 depend directly or

indirectly from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

In addition, regarding the rejection of claims 2-9, 12-19 and 22-29, the Applicant refers the Examiner to the above arguments of claim 1 that Abjanic does not disclose or suggest that the identifiers for the common switch, the first and second blade servers are located within a header portion of the received packet. Therefore, claims 2-9, 12-19 and 22-29 are also submitted to be allowable.

B. The Proposed Combination of Kennedy, Abjanic and Deng Does Not Render Claims 10, 20 and 30 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Kennedy and Abjanic has been overcome and request that the rejection be withdrawn. Deng does not overcome the above deficiencies of Kennedy and Abjanic. Therefore, claims 10, 20 and 30 are submitted to be allowable. Additionally, claims 10, 20 and 30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-30.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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